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***IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9040/2017

PARIVARTAN FOUNDATION

..... Petitioner

Through : Mr. Deepak K. Sharma, Mr.
Ashish Sharma and Ms.
Gauri Kaushik, Advs.

versus

**SOUTH DELHI MUNICIPAL
CORPORATION & ORS**

... Respondents

Through : Mr. Rakesh Mittal, Standing
Counsel for SDMC with Mr.
Kamlesh Anand, Adv.
Mr. Sumeet Pushkarna, Adv.
for DJB with Mr. Des Raj,
ZRO.
Mr. Sunil Fernandes,
Standing Counsel for BSES
RPL with Mr. Arnav
Vidyarthi, Adv. for R-3.
Mr. Kirti Uppal, Sr. Adv.
with Mr. Ajjay Aroraa,
Standing Counsel along with
Mr. Kapil Datta and Mr.
Pranvir Sethi, Advs.

+ W.P.(C) 11236/2017, CM Nos.7975/2018 & 7977/2018

PARIVARTAN FOUNDATION

..... Petitioner

Through : Mr. Deepak K. Sharma, Mr.
Ashish Sharma and Ms.
Gauri Kaushik, Advs.

W.P.(C) 9040/2017 & 11236/2017

page 1 of 3

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been compared and the digital data is as per
the physical file and no page is missing.

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versus

SOUTH DELHI MUNICIPAL
CORPORATION AND ORS.

... Respondents

Through : Mr. Kirti Uppal, Sr. Adv.
with Mr. Ajjay Aroraa,
Standing Counsel along with
Mr. Kapil Datta and Mr.
Pranvir Sethi, Advs.
Mr. Anuj Aggarwal, ASC,
GNCTD with Ms.
Deboshree Mukherjee, Adv.
for R-2&3.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

12.03.2018

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1. We have had grave reservations about the *bona fide* of the petitioner organization. Several startling submissions have been made from the side of the respondents regarding the petitioner trust. We had therefore, passed an order dated 20th February, 2018 in W.P.(C)No.876/2018 requiring the SDMC to conduct an inquiry regarding the properties of the trustees. The petitioners were also directed to file individual affidavits of the trustees regarding the properties owned by them.

2. Today, a writ petition, being *W.P.(C)No.5726/2017, All India Social Crime & Anticorruption Organization v. South Delhi*
W.P.(C) 9040/2017 & 11236/2017

Municipal Corporation & Anr. was listed before us targeting one individual property. What was unfortunate was that Shri Pawan Kumar Jha, Vice President, Parivartan Foundation (petitioner herein) has filed W.P.(C)No.5726/2017 claiming to be a member of the petitioner therein.

3. In view of the above, we are satisfied that these writ petitions have not been filed in public interest or are *bona fide*. We are therefore, not inclined to entertain these writ petitions claiming to have been filed in public interest.

4. Needless to say that the SDMC has to act in accordance with law and shall ensure that its actions are so guided.

5. In view of the above, these writ petitions and applications are dismissed.

Gita Kantal
ACTING CHIEF JUSTICE

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C.HARI SHANKAR, J

MARCH 12, 2018

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*Pg/130 - fresh CM 17780/19 - Direction
- Disposed of Matter*

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11236/2017**

PARIVARTAN FOUNDATION

..... Petitioner

Through: Mr. Deepak K. Sharma, Advocate.
Mr. Ajit Kumar, Advocate for the
applicants in C.M. No.17780/2019.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through: Mr. Ajjay Aroraa, Advocate with Mr.
Kapil Dutta, Advocate for SDMC.
Mr. Anuj Aggarwal, Advocate for
respondent Nos.2 and 3.
Mr. Anupam Verma, Advocate with
Mr. Nikhil Sharma, Advocate and Mr.
Aditya Gupta, Advocate for BRPL.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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15.04.2019

C.M. No.17780/2019

This application has been filed by the applicants herein, namely
Sh. Bandana Mishra, Sh. Braj Bhusan Chaudhary, Sh. Pankaj Bisht

and Smt. Kavita Mishra, contending that they are residents of the houses indicated in respective affidavits filed alongwith the application; and that steps are being taken for disconnecting the electricity connections provided to them in their houses.

It is argued by the applicants that the aforesaid action has been taken in the light of certain interim orders and directions issued by a Coordinate Division Bench of this Court in a Public Interest Litigation filed being W.P.(C) No.11236/2017 titled as ***Parivartan Foundation Vs. South Delhi Municipal Corporation of Delhi & Ors.*** It is the case of the applicants that even though they were not the respondents in the said case which pertained to removal of unauthorized construction and disconnecting amenities in such unauthorized construction, the impugned action has been taken against them in an illegal manner. It is further stated that being aggrieved by the aforesaid action, applicants have filed writ petitions before a learned Single Bench of this Court being W.P.(C) Nos.3331/2019, 3332/2019, 3333/2019 & 3335/2019 but the same were disposed of with directions to file the application in W.P.(C) No.11236/2017 in the case of ***Parivartan Foundation (supra)***.

Having considered the contentions canvassed, we are of the view that the present application is based on a fresh cause of action. In the case of ***Parivartan Foundation (supra)*** a general submission was made with regard to the inaction of statutory authorities, like the South Delhi Municipal Corporation, in permitting illegal and unauthorized construction to flourish and failing to take any action as is required under the statutory provisions.

Taking note of the aforesaid, this Court had issued directions that unauthorized construction should be removed; and if it is not removed, then, amenities in such buildings should be disconnected. It seems that it is in pursuance of such directions that the impugned action has been taken. However, the order passed in the case of *Parivartan Foundation (supra)* by a Division Bench was a general order without examining the merits of the matter with reference to unauthorized construction or otherwise in any particular building. It is now the case of the applicants that there is no unauthorized construction in their properties and on various grounds they seek to show that electricity connection has to be restored or granted to them. Even though counsel appearing for the SDMC refutes the aforesaid oral submissions, we are of the considered view that the cause of action which is canvassed by the applicants is a fresh cause of action, which has to be examined; and in our considered opinion in relegating the applicants to file this application the writ court did not take note of these factors. What was sought to be done in the earlier writ petition was an effort only to remove unauthorized construction and the intent was that only such construction should be removed which was unauthorized. If it is the case of the applicants that there is no authorized construction in their properties and that they are entitled to the benefits of amenities, then, it would be a fresh cause of action for the applicants to challenge the same before the appropriate Court of law.

If such an action is taken by the applicants, then, the Court will decide the case of the applicants uninfluenced by orders or

14

observations made in the case of *Parivartan Foundation* (*supra*).
The Court shall proceed to examine the case of each of the applicants
in accordance with law.

Application is accordingly disposed of.


CHIEF JUSTICE

ANUP JAIRAM BHAMBHANI, J

APRIL 15, 2019

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